# United States Court of Appeals for the Second Circuit



# JOINT APPENDIX

# 76-7221

In The

# United States Court of Appeals

For The Second Circuit

IVANUS MELIOTAS, Administrator & Personal Representative of the Estate of ANTHANASSIOS KARRAS, Deceased,

Plaintiff-Appellant,

VS.

ACTIS COMPANY, LTD., JOHN KARRAS & KARRAS COMPANY, INC.,

Defendants-Appellees.

## JOINT APPENDIX

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of ANTHANASSIOS KARRAS, Deceased ET AL

DATE	NR.	PROCEEDINGS MOTLEY,
07-16-75 08-12-75	2	Filed Complaint and Issued Summons. Filed summons and return-served the following: Karras Company by Treasurer of Osean Brokers Inc. on 07-07-75. Actius Company, LTD. by Treasurer of Ocean Brokers, Inc. on 07-07-75. John Karras By Treasurer of Ocean Brokers, Inc. on 07-07-75.
09-08-75		Filed defts' notice of appearance by Freehill Hogan & Mahar.
U7-U0-73	4	Filed stip.and order that time for defts to answer is extended to 10-13-75. Motley, J
01-08-76	(5)	Filed deft. Actis Company, Ltd. affdvt. and notice of motion for an order pursuant to Rule 12(b) FRCP to dismiss. Ret. 01-21-76
01-08-76	(6)	Filed deft. Actis Company, Ltd. memorandum of law in support of motion to dismiss.
<b>91-</b> 19-7	6 (8	said deft's motion dated 01-06-76.  Filed stip & erder adjourning deft's motion to dimmiss the complaint from
01-29-76	(9)	Ol-21-76 to O2-Oh-76. So ordered- MOTLEY, J. Filed pltff's memorandum of law in opposition to defts motion to dismiss.
01 <b>-</b> 29 <b>-7</b> 6 02 <b>-</b> 02-76		
03-22-7	6(12	) Filed defts' memorandum of law.
<b>0</b> 0 - 1 - 1	· 	Filed stip & order that the firm of Darby, Healey & Stonebridge shall act as trial counsel for all defts. for whom Freehill, Hogan & Mahar, attys of record, entered appearance. So ordered-MOTLEY, J.
03-30-7	6	Filed memo endorsed on document #5 the motion to dismiss on the ground of
O4-27-70	5 (1)	forum non conveniens is granted. Opinion follows. So ordered- MOTLEY, J. (m/n)  Filed pltff's notice of appeal to USCA from the order dismissing the action on grounds of forum non conveniens entered on 03-30-76. Copy mailed to:  Darby, Healey & Stonebridge.
O4-27-7	6(15	) Filed Memorandum-Opinion # 44299 for the reasons stated, this court grants defts' motion for dismissal on forum non conveniens grounds, with the proviso that defts comply with their pledge to appear in the appropriate Greek or Liberian court, as selected by the pltff, and that such defts do not interpose a time limitation defense whichever forum is chosen. So ordered-MOTLEY, J. (m/n)

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK

----X

IVANUS MELIOTAS, Administrator and Personal Representative of the

Estate of ATHANASSIOS KARRAS, Deceased,

eceased,

NOTICE OF MOTION

75 Civ. 3160 (CBM)

Plaintiff,

-against-

ACTIS COMPANY, LTD.

AND

JOHN KARRAS AND

KARRAS COMPANY,

Defendants.

SIRS:

PLEASE TAKE NOTICE, upon the annexed affidavit of THOMAS M. McCAFFREY, sworn to the 6th day of January, 1976 and upon all the pleadings and proceedings heretofore had herein, a motion will be made before the Honorable Constance Baker Motley of this Court, at the U. S. Courthouse, Foley Square, New York, New York at 10:00 a.m. o'clock on the 21st day of January, 1976, or as soon thereafter as counsel may be heard, for an Order pursuant to Rule 12(b) of the Federal Rules of Civil Procedure, dismissing the complaint on the grounds of forum non-conveniens; insufficiency of process; lack of jurisdiction over the person; failure to state a claim on which relief can be granted since American law is inapplicable.

Pated: New York, New York
January 6, 1976

Yours, etc.,

DARBY, HEALEY & STONEBRIDGE Attorneys for Defendant ACTIS COMPANY, LTD.

By: A Company

A Member of the Firm

TO: ABRAHAM E. FREEDMAN, ESQ. Attorney for Plaintiff 346 W. 17th Street New York, New York 10011 IVANUS MELIOTAS, Administrator and Personal Representative of the Estate of ATHANASSIOS KARRAS, Deceased.

AFFIDAVIT

75 Civ. 3160 (CBM)

Plaintiff,

-against-

ACTIS COMPANY, LTD.,
AND
JOHN KARRAS
AND
KARRAS COMPANY.

Defendants.

STATE OF NEW YORK )
COUNTY OF NEW YORK )

THOMAS M. McCAFFREY, being duly sworn, deposes and says that he is a member of the firm of DARBY, HEALEY & STONEBRIDGE, attorneys for the defendant, Actis Company, Ltd., herein, and is fully familiar with all the pleadings and proceedings heretofore had herein.

1. This is an affidavit in support of a motion to dismiss this action on the ground of forum non-conveniens. The action was commenced on or about June 27, 1975 seeking relief under the Jones Act, Death on the High Seas Act and "such other death statutes that are applicable under the circumstances". Plaintiff sues as administrator and personal representative for the estate of Athanassios Karras who died aboard the vessel at sea on or about July 11, 1973.

- 2. Decedent signed aboard the vessel as an able seaman on June 22, 1972 at Amsterdam and signed a Greek employment contract dated June 21, 1972 which incorporates all the terms and conditions of the Greek Collective Agreement (both attached).

  Mr. Karras was born on March 14, 1950 and listed his address on the crew list as Krya Vrissi Karditsis, Greece (crew list attached).
- 3. The vessel Aquacharm is registered under the Laws of the Republic of Liberia and flies the Liberian flag, and is owned by defendant Actis Company, Ltd., a corporation duly organized and existing under the Laws of the Republic of Liberia, having its principal office and place of business at Monrovia, Liberia (Lloyd's Register of Ships attached).
- 4. None of the officers, directors or stockholders of Actis Company, Ltd. is a citizen or resident of the United States
- 5. Actis Company, Ltd. does not maintain an office in the United States. The crew list of the Aquacharm dated July 12, 1973 does not contain any American citizen as officer or crew. Of 28 officers and crew, 22 are from Greece and 6 from the Phillipines.
- 6. The Aquacharm made 9 visits to U. S. ports in 1973, 4 visits in 1974, and 3 visits in 1975. In July 1973 Actis owned four other vessels of foreign registry, foreign flag and foreign ownership.
- 7. On July 2, 1973 the Aquacharm left Baltimore with a cargo of soya beans and corn bound for Amsterdam. On or about July 11, 1973 the vessel was near the coast of England when Chief Officer Georgios Priftis was overseeing the inspection of the

ship's holds. At one point the bosun Platon Laios either climbed into or fell into hatch 7 and apparently lost consciousness.

Decedent, Mr. Karras, was assisting in the attempts to get Mr.

Laios out when Karras himself apparently lost consciousness.

After both men were removed from the hold Mr. Laios regained consciousness, but Mr. Karras expired.

- 8. Medical assistance from Great Britain came to the vessel by helicopter and Mr. Karras was pronounced dead aboard the ship. His body was removed to England where an autopsy was performed after which his body was repatriated to Greece. The vessel continued on to Amsterdam.
- 9. Action was not filed in the Southern District of
  New York until June 27, 1975, almost two years after the incident
  and it seeks damages on behalf of the estate and next of kin,
  who reportedly are mother, father and sister. (Summons and complaint attached).
- 10. The attached affidavit of Philippos Patronas, the Secretary of defendant Actis Company, Ltd., states that Actis was the owner of the Aquacharm on July 11, 1973, that it is a Liberian corporation, and did not have an office in the United States on July 11, 1973 and does not at the present time. Actis Company, Ltd. has no connection with the other named defendants, John Karras or Karras Company.
- 11. Furthermore, service was purportedly made upon
  Actis Company, Ltd. through Ocean Brokers Inc. on July 2, 1975.
  It is submitted that such service was improper and it should be quashed since it failed to effect jurisdiction on Actis Company,

Affidavit of Thomas M. McCaffrey Annexed to Foregoing Notice Ltd. because Ocean Brokers Inc. acts only as agent for vessel owners in the event their vessel visits the United States (affidavit of Ocean Brokers Inc. attached).

- 12. Upon the facts plaintiff's rights are governed by foreign law, not by the law of the United States.
  - The death of Mr. Karras did not occur in United States waters.
  - (b) The law of the flag is Liberian,
  - The allegiance and domicile of decedent and of the plaintiff and of next of kin are in Greece.
  - (d) The owning company is Liberian.
  - The place of contract was in Amsterdam and included the Greek Collective Agreement and the Articles were signed pursuant to Greek law.
  - (f) Plaintiff has access to Greek courts where he resides.
  - (g) None of the officers, directors or stockholders is a U. S. citizen or resides in the United States.
  - (h) The Actis Company, Ltd. does not have an office in the U. S. and does not have a base of operations in the U.S.
  - (i) None of the witnesses or sources of proof, except for the loading of cargo in Baltimore, is located in the U.S. And any information regarding

Affidavit of Thomas M. McCaffrey Annexed to Foregoing Notice of Motion

loading of cargo can be obtained through documents or deposition.

- (j) No compulsory process for attendance of unwilling crew witnesses is available in the U. S. and the cost of obtaining attendance of willing witnesses would be unreasonable.
- (k) The practical reasons that make trial of a case easy, expeditious and inexpensive in this Court are absent.

The defendant Actis Company, Ltd. is willing to appear in the appropriate Greek Court to defend this claim and will not interpose a time limitation defense.

WHEREFORE, it is requested that the complaint be dismissed on the grounds of forum non-conveniens; insufficienty of process; lack of jurisdiction over the person; failure to state a claim on which relief can be granted since American law is inapplicable, and for such other and further relief as the Court may deem just and proper.

THOMAS M. McCAFFREY

Sworn to before me this 6th day of January, 1976.

PATRICIA MURRAY
Notary Public, State of Now York
No 24-Ont-104522100
Oughtied in Kings County
Certificate Filed in New York County

Commission Expires March 30, 161

EXHIBITS ANNEXED TO FOREGOING AFFIDAVIT:

#### SEAFARERS EMPLOYMENT CONTRACT

- 1) CONTRACTING PARTIES
- a) The Maritime Company CARRAS (HELLAS), acting as agent and representative of the corporation ACTIS CO., LTD., shipowning Company of the M.V. AQUACHARM, of the Liberian flag, Port of registry: Monrovia, Gross tons 25,168, International Call Letters ELAV, built in 1968, Kind of ship: Motor Vessel, D.W.: 46,753 with a Diesel engine, E.P. 14,400.

AND

b) The seaman ATHANASIOS KARRAS (son) of Vasilios, born in Karditsa, in 1949, Seaman Book No. 7985Δ, occupation resident of Krya Vrisi, Karditsa, have agreed that the second party signs on the above mentioned vessel under the following terms:

RANK: Seaman

WAGE AND WORKING TERMS: In conformity with the Greek Collective Agreement concerning Marine Employment, as it is in effect from time to time.

DURATION OF THE AGREEMENT: Unspecified.

- 2) SPECIFIC TERMS:
- a) The seaman is required to accept his transfer to another vessel of the same shipowning company or to a ship which is managed by the company CARRAS (HELLAS) in the same capacity which he will have on the above vessel and under the same terms of work and compensation in general. Such a transfer will not be considered as a termination of the contract or as an unjustified termination of the employment contract on the part of the company. In determining the days for vacation the service on both the ships will be considered. The provisions related to the composition of the crew on Greek flag vessels do not apply in the case of ships under foreign flag.

- b) Voyages to Viet-Nam harbours are no reason for termination of the employment contract.
- c) If the ship is carrying fuel the seaman will take a 10% increase on his wage only during the time in which the ship is carrying such fuel. If, thereafter, this allotment is paid even without the transportation of fuel, the seaman, nevertheless, does not get a legal right for continued receipt of said allotment.
- d) The seaman is obliged to the removal from the Tanks of the damaged cargo and to its disposal at sea for a compensation at the rate of 2.00 English Pounds per ton.
- e) Non obligatory payments, if any, made to the seaman, as the bonuses and the allowances for excellent service, are decided by the company after taking in consideration the productivity of the seaman.
- f) The seaman is entitled to repatriation expenses in accordance with the Code of Private Maritime Law.
- g) In case of illness the seaman's compensation will be regulated by the Greek Collective Agreement and the article 66 of the Code of Private Maritime Law, and in case of accident by the Law 551 "Re: as to the Accidents". All disputes concerning the enforcement of this employment contract will be decided by the GREEK COURTS and any recourse to the Courts of the U.S.A. or to the Courts of any other country is expressely excluded.

The present employment contract has been executed in two counterparts.

Piraeus, June 21, 1972
The Contracting Parties

Exhibit 1 - Seafarers Employment Contract

TATE OF NEW YORK )

SS.:

COUNTY OF NEW YORK;

lla

I, CONSTANTIN MATTHEOS, being duly sworn, do depose and say:

I am an attorney and counselor at law admitted to practice before the Courst of Athens, Greece. My continued standing as a member of the Athens, Greece Bar (Matriculation Number 12383), while in New York (19 Rector Street, New York, N.Y. 10006) has been established by approval of the Athens Bar Association.

I have completed the foregoing translation of a Seafarers Employment Contract between CARRAS (HELLAS) as representative of ACTIS CO., LTD., and Athanasios Karras, dated June 21, 1972, and said translation is true and accurate.

I am well versed in the Greek and English languages and have made numerous translations of legal documents and private documents from one language to the other and a number of such translations were offered and used in various matters pending in Courts and before Departments of Governments and none of such translations has been challenged.

Sworn to before me this

day of October, 1975

SOTING TANCFOULD

#### MEMORANDUM

TO: Thomas M. McCaffrey, Esq.

FROM: Constantin Mattheos

In connection with the accident of Athanasios Karras, I set forth hereinbelow, in translation into English various pertinent provisions of Greek Law.

#### I. Seaman's rights under Greek Law

Section 66 of the Law 3816/1956 (Re: Ratification of the Code of Private Maritime Law) in translation into English reads as follows:

"The seaman when sick is entitled to his wages and medical treatment at the ship's expense and in case that the contract of employment is terminated because of his illness and the seaman receives medical treatment ashore, he is entitled to medical expenses and to wages during his illness but in no way more than four months.

The above provisions shall also apply in the case of accident due to violent causes and in case that the seaman by reason thereof became incapable of work as well as in the case of death the special provisions relating to compensation for accidents during the employment shall also apply.

For the assessment of claims provided for by the present sections special wages may be stipulated."

## II. Existing restrictions to sue in the U.S.A.

The employment contract (ship's articles) between A. Karras and the owners provides that Greek law shall govern exclusively as to any claim or right arising out of the seafarers employment including claims on account of illness or accident. This provision is in conformity with Chapter XVII of the Collective Agreement applying on Greek cargo vessels of 4,500 D.W. and over, dated July 1, 1961 (Approved by Ministerial Decision No. 68489/3047 of October 4, 1961). Said provision in translation into English reads:

Whit 2

#### Exhibit 2 - Memorandum

"Individual contracts of employment, on which the present Collective Agreement applies, shall be governed exclusively, as to any claim or right arising out of the seafarer's employment, including claims on account of illness or accident, by the provisions of the present Collective Agreement and Greek Law, and adjudicated exclusively by the competent Greek Authorities and Greek Courts, recourse to any foreign Courts and to any foreign Law being prohibited and expressly ruled out."

(Exactly the same provision is repeated in Chapter XVII of the new Collective Agreement, which is in force today, applying on Greek cargo vessels of 4,500 D.W. and over, dated March 10, 1975 and approved by Ministerial decision on March 15, 1975).

Likewise, Section 37 of the Greek Criminal and Disciplinary Code of the Merchant Marine (Legislative Decree 654/1970) provides that any dispute as to any claim or right arising out of the employment contract between a member of the crew of a Greek flag vessel and his employer will be governed by Greek law and solved by the competent Greek Courts and authorities. To resort before any foreign authority with regard to the foregoing is prohibited and punishable by imprisonment for not more than three months.

# ΠΑΝΕΛΛΗΝΙΟΣ ΝΑΥΤΙΚΗ ΟΜΟΣΠΟΝΔΙΑ



# ΣΥΛΛΟΓΙΚΑΙ ΣΥΜΒΑΣΕΙΣ

ΠΟΝΤΟΠΟΡΩΝ ΦΟΡΤΗΓΩΝ ΠΛΟΙΩΝ ΧΩΡΗΤΙΚΟΤΗΤΟΣ 4.500 Κ.Ο.Χ. ΚΑΙ ΑΝΩ

1973

ΔΙΑΝΕΜΕΤΑΙ ΔΩΡΕΑΝ ΥΠΟ ΤΗΣ Π.Ν.Ο.

ΠΕΙΡΑΙΕΥΣ 1973

Exhe

#### ΕΠΙΛΥΣΙΣ ΑΤΟΜΙΚΩΝ ΔΙΑΦΟΡΩΝ

- 1. 'Ατομικαί συμδάσεις ναυτολογήσεως, έφ' ων ἔχει ἐφαρμογὴν ἡ παρούσα Συλλογική Σύμδασις, θὰ διέπωνται ἀποκλειστικῶς, ὡς πρὸς πᾶσαν ἐκ τῆς ἐργασίας ἀπαίτησιν ἢ δικαίωμα τοῦ ναυτικοῦ, συμπεριλαμδανομένων καὶ τῶν ἀπαιτήσεων ἐξ ἀσθενείας ἢ ἀτυχήματος, ὑπὸ τῆς παρούσης Συλλογικῆς Συμδάσεως καὶ τῶν Ἑλληνικῶν Νόμων καὶ θὰ κρίνωνται ἀποκλειστικῶς ἀπὸ τὰς άρμοδίας Ἑλληνικὰς 'Αρχὰς καὶ τὰ Ἑλληνικὰ Δικαστήρια, ἀπαγορευομένης καὶ ἀποκλεισμένης ἀπολύτως τῆς προσφυγῆς εἰς ἀλλοδαπὰ δικαστήρια, ὡς καὶ τῆς ἐφαρμογῆς οἰουδήποτε ἀλλοδαποῦ Νόμου.
- 2. Πᾶν μέλος τῶν συμδαλλομένων ναυτεργατικῶν ὀργανώσεων ὑποχρεοῦται ὅπως, διὰ πᾶν ζήτημα, τὸ ὁποῖον ἤθελεν ἀνακύψει ἐν τἢ ἔφαρμογἢ τῆς παρούσης Συλλογικῆς Συμδάσεως καὶ ἐν σχέσει πρὸς τοὺς ἐν αὐτἢ καὶ ἐν τῷ Νόμῳ προδλεπομένους δρους ἐργασίας, προσφεύγη ἀποκλειστικῶς εἰς τὴν ἔπαγγελματικήν του ὀργάνωσιν ἢ εἰς τοὺς κατὰ τόπους ἀντιπροσώπους τῆς Π.Ν.Ο. καὶ ἐπιδιώκη τῆ βοηθεία τοὑτων τὴν ἐπίλυσιν τοῦ τοιούτου ζητήματος ἀποκλειστικῶς διὰ τῶν οἰκείων Ἑλληνικῶν Λιμενικῶν ἢ Προξενικῶν ᾿Αρχῶν ἀποκλεισμένης τῆς προσφυγῆς τοῦ ναυτικοῦ εἰς ἄλλας ὀργανώσεις ἢ εἰς ἀλλοδαπὰς ᾿Αρχὰς καὶ ἀλλοδαπὰ δικαστήρια.
- 3. Συνομολογείται, ότι παράδασις τῶν διατάξεων τοῦ παρόντος Κεφαλαίου ὑπὸ τοῦ ναυτικοῦ συνιστῷ παράδασιν τοῦ καθήκοντος.

#### KEDAMAION IH.

#### IXXX IYAAOTIKHI IYMBAIENI

- Ή Ισχύς τής παρούσης ἄρχεται ἀναδρομικῶς ἀπὸ 1ης Ὁκτωθρίου 1972 καὶ λήγει τὴν 31) 12) 1974, πλὴν τῆς αὐξήσεως τῆς γενομένης εἰς τὴν ὑπερωριακὴν ἀμοιθὴν ἡ ἔναρξις τῆς ἰσχύος τῆς ὁποίας ἀνατρέχει ἀπὸ 1ης Νοεμβρίου 1972.
- 2. Συμβάσεις ναυτικής έργασίας συνομολογηθείσαι πρό τής 1ης 'Οκτωβρίου 1972 καὶ μὴ λήξασαι μέχρι τής ήμερομηνίας ταύτης, θὰ διέπωνται ἀπὸ τῆς ἰσχύος τῆς παρούσης ὑπὸ τῶν δρων αὐτής. Κατ' ἐξαίρεσιν, ὁ ὑπολογισμὸς τοῦ χρόνου ἀδείας τῶν ναυτικῶν θὰ γίνεται διὰ μὲν τὸ πρὸ τῆς ἰσχύος τῆς παρούσης συμβάσεως διάστημα πρὸς δύο (2) ἡμέρας κατὰ μῆνα ὑπηρεσίας, διὰ δὲ τὸ ἀπὶ τῆς ἰσχύος τῆς παρούσης καὶ ἐντεῦθεν διάστημα πρὸς δύο καὶ ἡμίσειαν (2½) ἡμέρας κατὰ μῆνα ὑπηρεσίας, ἡ ἀμοιδή ὅμως, τῶν ἡμερῶν ἀδείας θὰ ὑπολογίζεται ἐπὶ τῆ βάσει τοῦ μισθοῦ τῆς παρούσης διὰ τοὺς ἀπολυθέντος ἢ ἀπολυομένους μετὰ τὴν 1ην 'Οκτωσρίου 1972.
- 3. Τὸ παρὸν συνετάγη εἰς τριπλοῦν, ἐξ ὧν ἀνὰ ἔν ἀντίτυπον Ελαδον ἡ "Ενωσις Ἑλλήνων Ἐροπλιστῶν καὶ ἡ Πανελλήνιος Ναυτική 'Ομοσπονδία, τὸ δὲ τρίτον θέλει κατατεθή παρὰ τῷ ἀρμοδίᾳ Υπηρεσία τοῦ Υπουργείου Ἐθνικῆς Οἰκονομίας πρὸς κύρωσιν καὶ ὑπογράφεται ὡς ἔπεται:

Διὰ τὴν "Ενωσιν 'Ελλήνων 'Εφοπλιστῶν
'Ο Πρόεδρος
(ὑπογραφή)

Καθηγητής ΣΤΡΑΤΗΣ ΑΝΔΡΕΑΔΗΣ

31

Exh 2

#### AFFIDAVIT

Beforeme, the undersigned authority, personally came and appeared Mr. FILIPPOS PATRONAS who after being duly sworn, did depose and say:-

- 1. That he is the Secretary of ACTIS COMPANY Ltd., a corporation duly organized and existing by virtue of the Laws of the Republic of Liberia and having its principal office and place of business at Monrovia, Liberia.
- 2. Actis Company, Ltd. was the Owner of the vessel AQUACHARM on July 11, 1973, a vessel registered under the Laws of Liberia and flying the flag of the Republic of Liberia.
- 3. The AQUACHARM visited United States Ports 16 times as follows:

1973

29/3 31/ 3/73 9/ 4/73 Iong Beach Balboa / Cristobal 15/ 5 /73 24/ 5 /73 27/ 5 /73 24/ 6 /73 23/ 5/73 Baltimore 26/ 5/73 Norfolk 1/6/73 Baltimore 1/ 7/73 17/ 8/73 25/ 8/73 Baltimore 12/ 8 /73 Mobile 17/ 8 /73 2/10 /73 New Orleans 9/10/73 Corpus Christi

1974

13/ 4 /74 - 17/ 4/74 New Orleans 21/10/ 74 - 9/11/74 Baltimore 15/11 /74 - Cristobal 24/11 /74 - Balboa

1975

19/3/75 - 2/4/75 New Orleans 6/4/75 - Cristchal 7/4/75 - Balboa

4. Actis Company, Ltd. owns the following vessels on July 11, 1973 :-

m.v. AQUABELLE

- " AQUACHARM
- " AQUAFAITH
- " CARRAS
- " M.G. TSANGARIS

5. Actis Company, Ltd. does not maintain any Offices in the United States and did not maintain an Office in the United States on July 11, 1973.



## Exhibit 6 - Affidavit of Filippos Patronas

- 6. The officers, directors and stockholders of Actis Company, Ltd. are not citizens of the United States nor do any of them reside in the United States, nor were any of its officers, directors or stockholders citizens or residents of the United States on July 11, 1973.
- 7. The crew list of the AQUACHARM (attached) dated July 12, 1973 does not contain any American citizens as officers or crew as of July 11, 1973.
- 8. Decedent, Athanassios Karras, was a Greek citizen and held Seaman's Book No. 7985D and resided in Greece at Krya Vrissi Karditsis.
- 9. Decedent signed aboard the AQUACHARM as an able seaman at the port of Amsterdam on June 22, 1972, and signed a Greek employment contract dated June 21, 1972 which incorporates all the terms and conditions of the Greek Collective Agreement.
- 10. One of the terms of the Greek Collective Agreement is that Greek law is controlling as to the parties and that disputes will be decided by Greek Courts.
- 11. There is a forum available to plaintiff, Ivanus Meliotas, as administrator and personal representative of the estate, located in Greece where the plaintiff himself resides, which forum is competent to hear and determine the plaintiff's claims. The defendant will accept jurisdiction of the Greek Courts.
- 12. To date vessel Owners have not paid anything since beneficiaries, under the terms of the contract of employment and the Greek Collective Agreement as benefits arising out of the death of Athanassios Karras, have not reported to us.
- 13. Actis Company, Ltd. has no one named John Karras as an officer, director, stockholder or agent.
- 14. Actis Company, Ltd. has no connection or relationship with a company named Karras Company.



## Exhibit 6 - Affidavit of Filippos Patronas

15. There is a company named Carras (Hellas) Ltd. maintaining an Office in Piraeus, Greece which acts as Owners' agents.

ACTIS COMPANY, Ltd.,

Filippos Patronas
Secretary

CERTIFIED true signature of
Dated 18 DEC. 1975
CONSUL GENERAL CONCUL
CONSULATE GENERAL OF LIBERIA PIRAEUS - GREECE

### AFFIDAVIT

I, Spiro Kotzamanis am the Secretary/Treasurer of Ocean Brokers Inc., a corporation duly organized and existing under the laws of Delaware, engaged in the business of maritime brokerage at 770 Lexington Avenue, New York, New York 10021.

From time to time Ocean Brokers Inc. will act as agents for a shipowner or charterer when a vessel is in the port of New York.

Ocean Brokers Inc. is acting as agent for Actis Company, Ltd. owner of the vessel Aquacharm, which during the period 29/3/1973 - 7/4/1975 did not call at New York for either loading or discharging operations.

The Officers, directors and stockholders of Ocean Brokers Inc. have no connection with, or interest in, Actis Company, Ltd.

Ocean Brokers Inc. has no authority to accept service of process on behalf of Actis Company, Ltd.

January 6th, 1976

S. Kolzman

Sworn to before me this 6th day of January, 1976.

Notary No 24-01MU4522100

Ouslified in Kings County
Certificate Filed in New York County
Commission Expires March 30, 1976

## SUPPLEMENTAL AFFIDAVIT OF THOMAS M. McCAFFREY TO OUR MOTION DATED JANUARY 6, 1976 (Filed January 19, 1976)

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK

IVANUS MELIOTAS, Administrator and Personal Representative of the Estate of ATHANASSIOS KARRAS, Deceased.

-against-

Plaintiff.

SUPPLEMENTAL AFFIDAVIT TO OUR MOTION DATED JANUARY 6, 1976

> 75 Civ. 3160 (CBM)

ACTIS COMPANY, LTD. AND JOHN KARRAS AND

KARRAS COMPANY.

Defendants.

STATE OF NEW YORK SS.: COUNTY OF NEW YORK

THOMAS M. McCAFFREY, being duly sworn, deposes and says that he is a member of the firm of Darby, Healey & Stonebridge, attorneys for the defendant, Actis Company, Ltd., herein, and is fully familiar with all the pleadings and proceedings heretofore had herein, and that this affidavit is supplemental to our moving papers dated January 6, 1976. Your deponent has received and attaches hereto ship's articles consisting of three pages as a further exhibit in support of defendant's motion. The attachment is the ship's articles signed by decedent when he signed aboard at Amsterdam on June 22, 1972.

Sworn to before me this '(-Eday of January, 1976.

DATRICIA ARIBRAV

#### ARTICLES OF AGREEMENT BETWEEN THE MASTER AND SEAMEN IN THE MERCHANT 21a SERVICE OF THE REPUBLIC OF LIBERIA ANNEXED TO THE

FOREGOING SUPPLEMENTAL AFFIDAVIT
THE REPUBLIC OF LIBERIA TREASURY DEPARTMENT BURBAU OF MARITIME AFFAIRS

#### ARTICLES OF AGREEMENT BETWEEN THE MASTER AND SEAMEN IN THE MERCHANT SERVICE OF THE REPUBLIC OF LIBERIA

Horsepower	Gross Tonnago	Port of Registry	Official Number	Name of Vecesi
	25.168,25	Monrovia, Liberia	2,763	H N NOUNCILLBH
of whice	"MEHYBH"	seamen of the vessel(1) 4.4 AC	ter and the undersigned	IT IS AGREED between the Mast
now bound from the port	shall become Master, n	is at present Master, or whoever	NDCS	STEENHUS WINDLE
		y(4)		m

- Scamen shall conduct themselves in an orderly, faithful, honest and soher manner, and shall at all times be diligent in their respective duties and obedient to the lawful commands of the Master, or of any person who shall lawfully succeed him, and their superior officers, in person who shall have the vessel, its stores and cargo, whether on board, in bacts or on shore. In consideration of this service, to be duly performed, the Master agrees to pay the undersigned seamen the wages expressed herein and/or set forth in supplemental provisions and/or agreements.
- 2. Wages shall commence no later than on the day specified and agreed to in these Articles or at a time of presence on board for the purpose of commencing work, whichever first occurs, and shall terminate on the day of discharge.
- 3. Someon are outsided to receive on request, in local currently, from the Master one half of the induces of base wages actually estimal and payable at every intermediate porf where the vessel shull long us discharge comes before the most of the master. cargo before the end of the vayage, but not more than ou
- 4. If the Master and a seaman agree, a portige of such seaman's earnings may be alkitted to such seaman's spouse, children, grandchildren, parents grandparents, brothers or sisters, or to a bank assoust in the
- 5. Any scaman who is put ashore at a port other than the one where he signed on these Articles and who is put ashore for reasons for which he is not responsible, shall be returned as a scaman or otherwise, but without expense to him (a) at the Shipowner's option, to the port at which he was engaged or where the voyage commenced or to a port in which he was engaged or where the voyage commenced or to a port in such scaman's own country; or (b) to another port agreed upon between the seaman and the Shipowner or Master. However, in the event such scannar and the component of master, stopever, in the event sates scannar's contract period of service has not expired, the Shipowner's shall have the right to transfer him to seother of the Shipowner's vessels, to serve thereon for the balance of the contract period of service, unless otherwise provided for herein.
- Any scaman whose period of employment is terminated by reaso of completion of the voyage for which he was engaged or of expiration of his contract period of employment, shall be entitled to repatriation at no expense to him to the most at which he was engaged or to such other port as may be agreed upon.
- If any person enters himself as qualified for a duty which he is incompetent to perform, his rank or rating may be reduced in accordance with his incompetency or he may be discharged.
- 8. The Master shall sign and give to a summan discharge 'yen his vessel, either on his discharge or on payment of his wages, a cartificate of Service in a form approved by the Commissioner of Marktine Affairs, specifying the period of his service and the time and place of his
- Eight hours per day shall constitute a working day while in part and at sea. Work performed over and above an eight hour period shall be considered overtime and be compensated for at overtime rates.
- 10. Work performed in excess of eight hours per day shall not is compensated for when necessary for the safety of the vessel, its passengers, crew, cargo or for the saving of other vessels, lives or cargo, or for the performance of fire, lifeboat or other emergence.
- 11. Seamen steat keep their respective quarters clean and in ther.

- 13. No dangerous weapons, narcotics or contraband articles, and no alcoholic beverages except as provided by the Shipowaer as part of the vessel's provisions, shall be brought on board the vessel nor allowed in the possession of the crew, and any crew member bringing the same on board or having the same in his possession on board, shall be subject on board or having the same in his possession on board, shall be subject to discharge and (or) shall be liable for such fines as the Master may direct, and all such articles shall be confiscated. The amount of any fine levied against the vessel by the proper authority of the port wherein the vessel is then located, for possession of narcotics and (or) contraband exists, whall be made good to the Shipowner out of the wages of the creek samber or crew members guilty of such possession.
- 11. No sezman skah go ashore in any foreign port except by permission 13. To segmen skall go ashore in any foreign port except by permission of the Master, 350 ever, the Master shall not refuse the reasonable matter of any compact for shore leave for the purpose of presenting a compilent emitted the vessel or blaster to a Liberian Consul or other proper Liberian Consul or other proper Liberian Consul or other
- 14. The Supermer and Master may issue such rules and regulations as may be necessary for the safe and proper operation of the vessel; provided nothing contained therein shall be contrary to law.
- 15. If any seaman considers himself aggrieved by any breach of these Articles, he shall represent the same to the Master or officer in charge of the vessel, in a quiet and orderly manner, who shall thereupon take such corrective action as the case may require.
- 16. All rights and obligations of the parties to these Articles shall be subject to the Laws and Regulations of the Republic of Liberia.

This Contract shall be ruled by the Laws of employee's country. It is particularly emphasized in so far as GREEK maticular are concerned that together with Greek Laws, the Greek Collective Agreements—as in force for Greek Ships of this class—will also apply. It is further stipulated for Greek crews that any claim or dispute arising out of the present Articles and/or Agreement shall be adjudicated by the Greek Courts exclusively.

I'm WITHESS WHERZOF the said seamen have subscribed their names herein on the days mentioned against their respective signatures.

Signatur of Made

NO. 27

Articles opened at GLADSTONE

minate. For ships engaged in world-wide or schedules, insert "world-wide trading".

(1)—Enter name of vessel; place a.s. before name if a Steamship, and m.s. if a Motorship.

(2)—Enter full name of Master.

(3)—Enter name of first port of departure.

(4)—Enter name of vessel, in the contract of the places at which it has been only the port of country at which the uppage is to ten

or sepacuses, insert "world-wide trading".

(5)—Strike out word or words not applicable.

(6)...Those Articles may be supplemented by additional provisions as may be agreed to between the parties in which case said provisions shall be printed hereon or affixed hereto; provided, honever, that nothing contained therein is contrary to law.

ionar at Maritime Affaira, Republic of Like This official form of articles may not be reprovened wit FORM RLM-110 (Jan. 65)

AFFIDAVIT OF CHARLES SOVEL (Filed January 29, 1976)

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK

IVANUS MELIOTAS, Administrator and : Personal Representative of the Estate of ATHANASSIOS KARRAS, : Deceased,

Plaintiff,

75 Civ. 3160 (CBM)

-against-

ACTIS COMPANY, LTD. and

AFFI DAVIT

JOHN KARRAS and KARRAS COMPANY,

Defendants.

STATE OF NEW YORK )

COUNTY OF NEW YORK )

CHARLES SOVEL, being duly sworn according to law, deposes and says:

- l. I am an attorney at law duly admitted to practice before this Court and am associated with the firm of Abraham E. Freedman, counsel for plaintiff in the within matter. I submit this affidavit in opposition to the motion of the defendants to dismiss the complaint. The purpose of this affidavit is to set forth as a matter of record in this case certain provisions of the Law of the Republic of Liberia which are relevant to the matter presently before the Court and of which it is requested the Court take judicial notice.
- 2. Attached to this affidavit are copies of certain provisions of the Liberian Maritime Law and the Liberian Maritime Regulations taken from pamphlets which were published by the authority of the Liberian Government and which were obtained from the offices of the Liberian Government maintained in the City of New York. It is requested that the Court take judicial notice

of the following provisions set forth in these publications.

From the Liberian Maritime Law, the following provisions:

Section 2. Liberian Law to Govern Matters Affecting Economy of Liberian Flag Ships.—All matters affecting the economy of Liberian Flag ships, including labour relations, shall be governed by the laws of Liberia.

Section 30. Adoption of General American Maritime Law-Insofar as it does not conflict with any other provisions of this Title, the non-statutory general Maritime Law of the United States of America is hereby adopted as the general Maritime Law of the Republic of Liberia.

Section 320. Shipping Articles Required.—
Before the Master of any Liberian vessel of 75
net tons or more shall sail from any port,
there shall be in force Shipping Articles
(sometimes referred to as articles) with
every seaman on board his vessel, except with
persons who are apprentices to, or servants
of, himself or the vessel's owner. The
Shipping Articles shall be written or printed
and shall be subscribed by every seaman
shipping on the vessel and shall state the
period of enga, ement or voyage or voyages and
the term or terms for which each seaman shall
be shipped and the rate of pay for each and
such other items as may be required by
Regulation.

Section 337. Wrongful Death. --Notwithstanding anything contained in Title XVII, whenever the death of a seaman, resulting from an injury, shall be caused by wrongful act, omission, neglect or default occurring on board a vessel, the personal representative of the deceased seaman may maintain a suit for damages, for the exclusive benefit of the deceased's wife, husband, parent, child or dependent relative, against the vessel, person or corporation which would have been liable if death had not ensued.

From the Liberian Maritime Regulations, Section 10.320(4),

Section 16 of the required form of shipping articles which provide:

"16.All rights and obligations of the parties to these Articles shall be subject to the Laws and Regulations of the Republic of Liberia."

Dated: New York, New York January 1976

CHAPIEC COURT

Sworn to before me this

Casengenie

2003 CERT FROM 13 (1987)

CERTAIN PROVISIONS OF THE LIBERIAN MARITIME LAW AND THE LIBERIAN MARITIME REGULATIONS DATED AUGUST 18, 1964 ANNEXED TO FOREGOING AFFIDAVIT

24a

# THE LIBERIAN

# MARITIME LAW

(Title 22 of the Liberian Code of Laws of 1956, effective March 1, 1958, as amended April 23, 1964 and effective August 18, 1964).

18 August, 1964



Published by Authority of the Liberian Government

# Certain Provisions of the Liberian Maritime Law and the Liberian Maritime Regulations Dated August 18, 1964 Annexed to Foregoing Affidavit

25a

#### CHAPTER 1. GENERAL

POLICY

#### SECTION 1

Statement of Policy.—This Title is intended, and shall be construed, to encourage and foster the growth and development of the foreign and domestic commerce and to promote and protect the national defense and security of the Republic of Liberia.

Prior legislation: Lib. Mar. Code, t. I, sec. 2.

#### SECTION 2

Liberian Law to Govern Matters Affecting Economy of Liberian Flag Ships.—All matters affecting the economy of Liberian Flag ships, including labour relations, shall be governed by the laws of Liberia. (Eff. Apr. 11, 1962).

#### **ADMINISTRATION**

#### SECTION 10

Administration of the Law: Secretary of the Treasury.—The Secretary of the Treasury (hereinafter sometimes referred to as "the Secretary") shall administer all matters pertaining to domestic and foreign water-borne commerce of this Republic, and in the performance of his duties hereunder shall designate or establish an appropriate bureau or agency for the effective administration of the provisions of this Title.

Prior legislation: Lib. Mar. Code, t. I, sec. 3.

#### SECTION 11

Commissioner of Maritime Affairs: rules and regulations order to effectute the policy and findings of facts herein declared, there shall be Commissioner of Maritime Affairs (hereinafter sometimes referred to as "... Commissioner") who shall be appointed by the President and who shall make rules are regulations for carrying out the provisions of this Title and to insure the seaworthiness of Liberian ships and proper manning conditions on board. When signed by the Secretary and approved by the President, all such rules, regulations, and amendments therto shall have the force and effect of law.

Prior legislation: Lib. Mar. Code, t. I, sec. 4; and 1841 Digest pt. I, Act regulating commerce and revenue, sec. 28, 2 Hub. 1480; as amended Apr. 7, 1960.

#### SECTION 12

Deputy Commissioners of Maritime Affairs.—The administrative duties of the Commissioner may be performed in foreign ports by agents from time to time appointed by him with the title of Deputy Commissioners of Maritime Affairs (hereinafter sometimes referred to as "Deputy Commissioners").

Prior legislation: Lib. Mar. Code, t. I, sec. 5, added Dec. 22, 1949; and Mar. Reg. 1.2, eff. Feb. 28, 1949.

#### SECTION 13

Administration of Regulations.—The regulations promulgated by the Commissioner of Maritime Affairs of the Republic of Liberia pursuant to the provisions of section 11 of this Chapter shall be administered by an agent of the Liberian Government, to be designated and appointed by the Secretary for the effective administration of the provisions of the Maritime Law.

Prior legislation: Mar. Reg. 1.1, eff. Feb. 28, 1949.

#### **SECTION 14**

Records Relating to Vessels.—There shall be maintained at the office of the Commissioner of Maritime Affairs in Monrovia and at the office of each Deputy Commis-

# Certain Provisions of the Liberian Maritime Law and the Liberian Maritime Regulations Dated August 18, 1964 Annexed to Foregoing CONSTRUCTION Affidavit

#### SECTION 30

Adoption of General American Maritime Law.—Insofar as it does not conflict with any other provisions of this Title, the non-statutory general Maritime Law of the United States of America is hereby declared to be and is hereby adopted as the general Maritime Law of the Republic of Liberia.

Prior legislation: Lib. Mar. Code, t.IX.

#### SECTION 31

Separability.—If any provision of this Title, or the application of any such provision to any circumstances or persons, natural or corporate, shall be held invalid, the validity of the remainder of the Title and the applicability of such provisions to other circumstances or persons, individual or corporate, shall not be affected thereby.

Prior legislation: Lib. Mar. Code, t.X.

#### SECTION 32

General Penalty for Violation.—Except as otherwise specified herein, any person who is convicted by a court of competent jurisdiction of a violation of any of the provisions of Chapters 1, 2, 3, 4, or 5 or of sections 250-256, or 292 or of any of the lawful rules and regulations of the Commissioner made as provided in section 11 of this Title shall, upon conviction, be subject to a fine not exceeding ten thousand dollars or imprisonment for a term not exceeding ten years, or both.

Prior legislation: Lib. Mar. Code, t.XI, as amended April 23, 1964, eff. Aug. 18, 1964.

## SECTION 33

Jurisdiction.—All causes of action arising out of, or under, this Title are hereby declared and shall be cognizable before the Circuit Courts of the Republic, sitting in Admiralty, but, except as otherwise specifically provided in this Title, the provisions of this section shall not be deemed to deprive other courts, of Liberia or elsewhere, of jurisdiction to enforce such causes of action.

Prior legislation: Lib. Mar. Code, t.XII.

# CHAPTER 2. DOCUMENTATION AND IDENTIFICATION OF VESSELS

#### SECTION 50

General Provisions.—No self-propelled or sailing vessel of twenty net tons or over engaged in trade exclusively between ports of the Republic of Liberia and no vessel engaged in foreign trade shall fly the flag of the Republic of Liberia or be accorded the rights and privileges of a Liberian vessel unless such vessel shall be registered in accordance with the provisions of Chapter 2 of this Title. The home port of every vessel so registered shall be Monrovia, and the name of the home port shall be shown on the Certificate of Registry.

Prior legislation: Lib. Mar. Code, t. II, sec. 1, as amended Dec. 22, 1949; 1841 Digest, pt. I, Act regulating commerce and revenue, sec. 10, 2 Hub. 1480; and 1828 Code, Digest, Art. XXXV, 2 Hub. 1272, 1294.

#### SECTION 51

Vessels Eligible to be Documented. -Vessels of the following classes are eligible to be documented under the laws of the Republic of Liberia:

(a) A sca-going vessel engaged in the foreign trade wherever built, owned by a citizen or national of Liberia, or a sea-going vessel of more than 100 net tons engaged in the foreign trade wherever built, owned by a citizen or national of

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## Certain Provisions of the Liberian Maritime Law and the Liberian Maritime Regulations Dated August 18, 1964 Annexed to Foregoing Affidavit

#### SECTION 296

Duties of the Master.-The Master shall, among others, have the following duties:

(a) To enter into Shipping Articles with seamen as hereinafter provided;

(b) To maintain discipline on board the vessel and to take all such steps as are necessary and appropriate in connection therewith;

(c) To assume responsibility for the receipt of cargo by the vessel, stowage of cargo on board the vessel insofar as such stowage affects the safety or navigability of the vessel, and for the discharge of cargo from the vessel;

(d) To assume full responsibility for the safety of the members of the crew and passengers, if any, and to take all necessary and appropriate steps in connection therewith;

(e) To assume full responsibility for the navigation of the vessel at all times;

(f) To assume full responsibility for the vessel's funds and the disbursement

(g) To see that the vessel's log books are properly and accurately kept;(h) To keep in his custody all of the vessel's documents;

To make all reports required by Liberian laws or regulations or by the regulations of any ports at which the vessel may call;

(j) To render assistance in the saving of life and property at sea.

(Eff. Aug. 18, 1964).

#### SECTION 297

Special Powers of Masters.-When a vessel is at sea, the Master is authorized to:

(a) Marry passengers or other persons aboard;

(b) Issue birth certificates for children born at sea; (c) Bury persons who have died on board the vessel while at sea.

(Eff. Aug. 18, 1964).

#### SECTION 298

Certain Seamen's Rights Provided for Master.-Except as otherwise provided, the Master of a Liberian vessel shall have the same rights in respect of wages, maintenance and cure and repatriation as are hereinafter provided for seamen. (Eff. Aug. 18, 1964).

#### SECTION 299

Wrongful Death.-The personal representative of the Master of a Liberian vessel shall have the same rights in case of the Master's wrongful death as hereinafter provided in respect of seamen. (Eff. Aug. 18, 1964).

## RIGHTS AND DUTIES OF SEAMEN

#### SECTION 320

Shipping Articles Required.-Before the Master of any Liberian vessel of 75 net tons or more shall sail from any port, there shall be in force Shipping Articles (sometimes referred to as articles) with every seaman on board his vessel, except with persons who are apprenticed to, or servants of, himself or the vessel's owner. The Shipping Articles shall be written or printed and shall be subscribed by every seaman shipping on the vessel and shall state the period of engagement or voyage or voyages and the term or terms for which each seaman shall be shipped and the rate of pay for each and such other items as may be required by Regulation.

Prior legislation: L. 1868-69, 27 secs. 1, 2, 5, as amended Feb. 28, 1958, eff. March 1, 1958; prev. sec. 310, renumbered Aug. 18, 1964.

#### SECTION 321

Penalty for Alteration of Shipping Articles.-If any person fraudulently alters, or makes any false entry in any Shipping Article, and if any person aids in committing,

#### Certain Provisions of the Liberian Maritime Law and the Liberian Maritime Regulations Dated August 18, 1964 Annexed to Foregoing Affidavit SECTION 336

Wages, Maintenance and Cure for Sick and Injured Seaman .- (1) In the event of disabling sickness or injury, while a seaman is on board a vessel under signed Shipping Articles or off the vessel pursuant to an actual mission assigned to him by, or by the authority of, the Master, the seaman shall be entitled to:

(a) Full wages, as long as he is sick or injured and remains on board the vessel;

(b) Medical and surgical treatment and supply of proper and sufficient medicines and therapeutical appliances, until medically declared to have reached a maximum cure or to be incurable, but in no event more than 30 weeks from the day of the injury or commencement of the sickness;

(c) An amount equal to board and lodging up to a maximum period of 30 weeks, and one-third of his base wages during any portion of such period subsequent to his landing from the vessel but not to exceed a maximum period of 16 weeks commencing from the day of injury or commencement of the sickness;

(d) Repatriation as provided in section 342 including, in addition, all charges for his transportation, accommodation and food during the journey and his maintenance up to the time fixed for his departure.

(2) The shipowner or his representative shall take adequate measures for safe-guarding property left on board by sick, injured or deceased seaman.

(3) The seaman shall not be entitled to any of the foregoing benefits:

(a) If such sickness or injury resulted from his willful act, default or miscon-

(b) If such sickness or injury developed from a condition which was intentionally concealed from the employer at or prior to his engagement under the Articles;

(c) If he refuses medical treatment for such sickness or injury or is denied such treatment because of misconduct or default;

(d) If at the time of his engagement he refused to be medically examined.

(4) The seaman shall have a maritime lien against the vessel for any wages due him under this Section.

(Prev. sec. 312, eff. Apr. 7, 1960; renumbered Aug. 18, 1964).

#### SECTION 337

Wrongful Death.-Notwithstanding anything contained in Title XVII, whenever the death of a seaman, resulting from an injury, shall be caused by wrongful act, omission, neglect or default occuring on board a vessel, the personal representative of the deceased seaman may maintain a suit for damages, for the exclusive benefit of the deceased's wife, husband, parent, child or dependent relative, against the vessel, person or corporation which would have been liable if death had not ensued. (Eff. Aug. 18, 1964).

#### SECTION 338

Death on Board.-In the event of a death on board a vessel, an entry shall be made into the vessel's logbook by the master and one of his officers. He shall also report the death to the authorities at the first port of arrival and shall submit a statement signed by him to the Commissioner of Maritime Affairs or to the Deputy Commissioner of Maritime Affairs. The logbook entry and statement shall contain the first and last name, sex, nationality, year and place of birth of the deceased person, the cause of death, place of death (latitude, longitude), date and time of death and the names of next-ofkin, if known, and name of the vessel. If the deceased person is a seaman, the entry and statement shall contain, in addition, his rank or rating, place and address of his residence or domicile and the number of his license with date of issuance. The statement submitted by the Master shall be countersigned by any attending physician aboard, otherwise by one of the ship's officers. A list of personal effects and amounts of money left on board the vessel shall be attached. (Eff. Aug. 18, 1964). Prior legislation: Mar. Reg. 10.319.

HARALID HUBBELL

ALL INFO.

CORNELL UNIL PRESS

LIBERIAN CODIFICATION

PROTECT

## LIBERIAN

# MARITIME REGULATIONS

(Containing all Amendments through 7 Dec. 1964)

7 December 1964

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RLM-108

Published by Authority of the Liberian Government

# Certain Provisions of the Liberian Maritime Law and the Liberian Maritime Regulations Dated December 7, 1964 Annexed to Foregoing Affidavit

dertaken in the event of an emergency and shall cause to be drawn up and posted a muster list showing said assignments which list shall further indicate the particular station to which each crew member must go. The muster list shall assign such duties as the master deems necessary for the safety of the vessel, its crew and cargo. The master shall further specify and publish definite signals for calling all the crew to their boat and fire stations, and shall give full particulars of these signals to all the crew and passengers.

Prev. 10.290(3) eff. 9 Apr. 1960; renumbered 7 Dec. 1964.

## (5) Fire and Boat Drills.

(a) The master of every Liberian vessel shall cause the crew to be exercised at fire and boat drill at least one in every week, and such drills shall be conducted as if an actual emergency existed. All fire pumps shall be started and sufficient outlets opened in order to determine that the system is in proper working order.

(b) Persons assigned to the use of rescue and safety equipment shall demonstrate

their proficiency in the use of such equipment.

(c) All watertight doors in use while the vessel is underway shall be operated.

(d) Weather permitting, lifeboat covers and strongbacks shall be removed, plugs or caps put in place, boat ladders secured in position, painters led forward and tended and the boats swung out to ascertain that the gear is in good working order. The motor and hand-propelling gear of each lifeboat, where fitted, shall be operated sufficiently to ascertain that it is in proper operating condition.

(e) Passengers shall report to their stations and shall be instructed in the use of life

preservers.

(f) Each lifeboat shall be lowered to the water at least once in every three months, when in port, and the crew shall be exercised in the use of oars and other means of propulsion where fitted.

Prov. 10.290 1, eff. 28 Apr. 1961; renumbered 7 Dec. 1964.

Line-throwing Apparatus.—On vessels fitted with a line-throwing appliance, the master shall cause the crew to be exercised in the use of such appliance and shall require it to be fired at least once in every three months, except that the actual firing of the gan shall be discretionary on the part of the master in the case of tank vessels. The service line shall not be used for drill purposes. In lieu thereof, any flexible line of proper size and length, suitably flaked or laid out, may be used.

24- 10.27. 5 eff. 28 Apr. 1961; renumbered 7 Dec. 1964.

#### 19 020 Shipping Articles.

Official Form Required.—Shipping Articles, sometimes referred to as Articles of Articles of English language and shall be in a form prescribed by the maissioner of Maritime Affairs, as set forth in sub-section (4) hereof. No other hall be used in lieu of the official form except that a foreign language version appended thereto or otherwise made a part thereof; provided, however, that would the initial form of Shipping Articles prescribed herein shall be required to appreciate of the Articles currently in effect or within one year from the later of these Regulations, whichever is later.

of Signing on Articles.—Every seaman joining a vessel to commence employand shall sign the Shipping Articles prior to the vessel's departure from the the seaman so joined the vessel. The master shall officiate at the signseaman and shall sign his name to the Shipping Articles in attestation as a acted.

of Articles not a Waiver.—The signing-off of Shipping Articles by a time of his discharge from employment on board shall not constitute

# Certain Provisions of the Liberian Maritime Law and the Liberian Maritime Regulations Dated December 7, 1964 Annexed to Foregoing Affidavit

a waiver on his part of any claim he may have against the vessel or its Master at that time.

(4) Form of Shipping Articles.

## ARTICLES OF AGREEMENT BETWEEN THE MASTER AND SEAMEN IN THE MERCHANT SERVICE OF THE REPUBLIC OF LIBERIA

Name of Vessel Official Number Port of Registry Gross Tonnage Horsepower It is agreed between the Master and the undersigned seamen of the (steam) (Motor) vessel (1) of which (2) is at present Master, or whose it shall become Master, now bound from the port of (3) to (4) and such other Ports and places in any part of the world as the Master may direct, for a term (of) (not exceeding) (5) calendar months, that:

1. Seamen shall conduct themselves in an orderly, faithful, honest and sober manner, and shall at all times be diligent in their respective duties and obedient to the lawful commands of the Master, or of any person who shall lawfully succeed him, and their superior officers, in everything relating to the vessel, its stores and cargo, whether on board, in boats or on shore. In consideration of this service, to be duly performed, the Master agrees to pay the undersigned seamen the wages expressed herein and/or set forth in supplemental provisions and/or agreements.

2. Wages shall commence no later than on the day specified and agreed to in these Articles or at a time of presence on board for the purpose of commencing work, whichever first occurs, and shall terminate on the day of discharge.

3. Seamen are entitled to receive on request, in local currency, from the Master one half of the balance of base wages actually earned and payable at every intermediate port where the vessel shall load or discharge cargo before the end of the voyage, but not more than once in any ten-day period.

4. If the Master and a seaman agree, a portion of such seaman's earnings may be allotted to such seaman's spouse, children, grandchildren, parents, grandparents, brothers or sisters, or to a bank account in the name of the seaman.

5. Any seaman who is put ashore at a port other than the one where he signed on these Articles and who is put ashore for reasons for which he is not responsible, shall be returned as a seaman or otherwise, but without expense to him (a) at the Shipowner's option, to the port at which he was engaged or where the voyage commenced or to a port in such seaman's own country; or (b) to another port agreed upon between the seaman and the Shipowner or Master. However, in the event such seaman's contract period of service has not expired, the Shipowner shall have the right to transfer him to another of the Shipowner's vessels, to serve thereon for the balance of the contract period of service, unless otherwise provided for herein.

6. Any seaman whose period of employment is terminated by reason of completion of the voyage for which he was engaged or of expiration of his contract period of employment, shall be entitled to repatriation at no expense to him to the port at which he was engaged or to such other port as may be agreed upon.

7. If any person enters himself as qualified for a duty which he is incompetent to perform, his rank or rating may be reduced in accordance with his incompetency or he may be discharged.

8. The Master shall sign and give to a seamen discharged from his vessel either on his discharge or on payment of his wages, a Certificate of Service in a form approved by the Commissioner of Maritime Affairs, specifying the period of his service and the time and place of his discharge.

# Certain Provisions of the Liberian Maritime Law and the Liberian Maritime Regulations Dated December 7, 1964

Annexed to Foregoing Affidavit
9. Eight hours per day shall constitute a working day while in port and at sea.
Work performed over and above an eight hour period shall be considered overtime and be compensated for at overtime rates.

10. Work performed in excess of eight hours per day shall not be compensated for when necessary for the safety of the vessel, its passengers, crew, cargo or for the saving of other vessels, lives or cargo, or for the performance of fire, lifeboat or other emergency drills.

11. Seamen shall keep their respective quarters clean and in order.

12. No dangerous weapons, narcotics or contraband articles, and no alcoholic beverages except as provided by the Shipowner as part of the vessel's provisions, shall be brought on board the vessel nor allowed in the possession of the crew, and any crew member bringing the same on board or having the same in his possession on board, shall be subject to discharge and (or) shall be liable for such fines as the Master may direct, and all such articles shall be confiscated. The amount of any fine levied against the vessel by the proper authority of the port wherein the vessel is then located, for possession of narcotics and (or) contraband cargo, shall be made good to the Shipowner out of the wages of the crew member or crew members guilty of such possession.

13. No seaman shall go ashore in any foreign port except by permission of the Master. However, the Master shall not refuse the reasonable request of any seaman for shore leave for the purpose of presenting a complaint against the vessel or Master to a Liberian Consul or other proper Liberian Official.

14. The Shipowner and Master may issue such rules and regulations as may be necessary for the safe and proper operation of the vessel; provided nothing contained therein shall be contrary to law.

15. If any seaman considers honself aggrieved by any breach of these Articles, he shall represent the same to the Master or officer in charge of the vessel, in a quiet and orderly manner, who shall thereupon take such corrective action as the case may require.

16. All rights and obligations of the parties to these Articles shall be subject to the Laws and Regulations of the Republic of Liberia.

#### IT IS ALSO AGREED THAT:

(additional provisions may be included or referenced herein or attached hereto)
IN WITNESS WHEREOF the said seamen have subscribed
their names herein on the days mentioned against
their respective signatures.

A 11-1	1		
Articles op	enea	at	on

#### Signature of Master

#### Columnar Entries

- (1) Name of Seaman
- (2) Citizenship
- (3) Passport or Identification Number
- (4) License or Certificate Number
- (5) Age
- (6) Home Address
- (7) Name and Address of next-of-kin
- (8) Date and Place Wages Commence

Note 1 Enter name of vessel

Note 2 Enter full name of Master

- (9) Capacity in which engaged
- (10) Base Wages per month
- (11) Date and place signed on Articles
- (12) Signature of Seaman
- (13) Signature of Master
- (14) Date and place signed off Articles
- (15) Signature of Seaman
- (16) Signature of Master

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Note 4 Enter here a description of the voyage and the names of the places at which the ship is to touch, or if that cannot be done, the general nature and the probable length of the voyage and the port or country at which the voyage is to terminate. For ships engaged in world-wide trading without definite itineraries or schedules, insert "world-wide trading".

Note 5 Strike out word or words not applicable.

Prev. 10.1 eff. 1 Mar. 1958; renumbered 9 Apr. 1960; renumbered and amended 7 Dec. 1964.

#### 10.325 Certificates of Service.

(1) Official Form Required.—Certificates of Service shall be in a form prescribed by the Commissioner of Maritime Affairs, and shall contain the information set forth in sub-section (4) hereof. No other form shall be used in lieu thereof.

(2) Service to be stated separately.—Where a seaman has served in more than one capacity on board a vessel during a period of continuous service thereon, the Certificate of Service issued to him upon his discharge shall indicate separately the total service served in each capacity.

(3) Certificates to be issued by Master.—Certificates of Service shall be issued under the signature of the Master and the seal or stamp of the vessel shall be affixed there-

(4) Form of Certificate of Service.

(a) Name of Seaman

(b) Citizenship

**Hank or Rating** 

(d) License, Book or Certificate Number

(e) Place of Engagement

(f) Date of Engagement (g) Place of Discharge

(h) Date of Discharge

Total Service (Months and Days)

Name of Vessel

(indicate steam or motor)

(k) Official Number

(l) Port of Registry

(m) Gross Tonnage

(n) Horsepower

(o) Nature of Voyage

(p) Remarks

I hereby certify to the best of my knowledge that all entries herein were made by me and are correct. In witness whereof, I have this date affixed my signature and the seal or stamp of the vessel.

Date

Eff. 7 Dec. 1964.

Signature of Master

10.326 Register of Children.—The master of each vessel upon which only members of the same family are employed, school ship or training ship and upon which vessels children under the age of sixteen years are employed shall maintain a register of all such persons and shall record therein, with respect to each such child, his name, date and place of birth, citizenship, residence, and address of next-of-kin or legal guardian, capacity in which employed, date and place of employment, and the date and place of discharge.

Eff. 7 Dec. 1964.

10.341 Certain Work not to be Compensated for as Overtime.-Work performed in excess of eight hours per day shall not be compensated for as overtime when necessary for the safety of the vessel, its passengers, crew, cargo or for the saving of other vessels, lives or cargo, or for the performance of fire, lifeboat or other emergency drills.

Eff. 7 Dec. 1964.

REPLY AFFIDAVIT OF THOMAS M. McCAFFREY (Filed February 2, 1976)

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK

34a

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IVANUS MELIOTAS, Administrator and Personal Representative of the Estate of ATHANASSIOS KARRAS, Deceased,

Plaintiff,

-against-

75 Civil 3160 (CBM)

ACTIS COMPANY, LTD., JOHN KARRAS and

88.:

KARRAS COMPANY,

REPLY AFFIDAVIT

Defendants.

STATE OF NEW YORK)

COUNTY OF NEW YORK

THOMAS M. McCAFFREY, being duly sworn, deposes and says that he is a member of the firm of DARBY, HEALEY & STONEBRIDGE, attorneys for the Defendants, and is fully familiar with the pleadings and proceedings heretofore had herein and makes this affidavit in reply to the opposing affidavit and memorandum of law filed by Abraham E. Freedman.

Liberian flag and registry. Nor is there any quarrel that
Liberia adopted the maritime law of the United States, just as
any other country might choose to adopt our general maritime
law. But that is not the test in a motion to dismiss on the
ground of forum non conveniens. If it were, our courts would
hardly dismiss actions repeatedly on that basis. Rather the
test is whether American contacts are lacking in a given case.
Dismissals have been ordered in cases where United States contacts were far more substantial than in the instant case, such
as the accident happening at a United States port, Xerakis -v-

Reply Affidavit of Thomas M. McCaffrey

Greek Lines, 382 F 2d 774, 1975 A.M.C. 644; (E.D. Pa. 1974)

where a Greek seaman jumped to his death from a Liberian vessel in New York harbor, and Lambiris -v- Neptune Maritime, 38 App.

Div. 2nd 528 (First Department) 1972 A.M.C. 106, Rodriguez -v
Orion, 348 F. Supp. 777 (S.D.N.Y. 1972), Leonard -v- General

Carriers, 1975 A.M.C. 471 (N.D. Cal. 1974).

Again, in <u>Fitzgerald -v- Zim Israel</u>, 1975 A.M.C. 1425, (S.D.N.Y. 1975), an Ecuadorian aboard an Israeli flag vessel sustained fatal injuries on the high seas requiring attendance of the United States Coast Guard followed by an autopsy in Honolulu, and although there was even a 25% American ownership in the vessel, Judge Palmieri found insuffic ant contacts between the events and the United States to justify retention of jurisdiction.

Judge Weinfeld expressed the point clearly in Noto -v- Cia Cecula (Tanker Louisa) 310 F. 2d 639, where he said at page 650:

"The courts would be derelict if they supinely stood by, aware that improper practices had flooded their dockets with litigation that truly belongs in another forum. The courts have 'inherent power to protect (themselves) from a deluge of litigation by nonresidents, inspired by contingent retainer's to avoid or over-come foreign laws and interpretation and application thereof by foreign courts..."

(See also <u>Xerakis and Fitzgerald</u>, supra., stronly supporting this position).

Decedent, Mr. Karras, and the shipowner contracted specifically that Greek courts would provide the remedy for disputes. This was their right and the United States is not the world arbiter for determining those rights when its contacts with the case are insignificant. The shipowner has done business in United States ports as it has in countless foreign ports, since that is the nature of international shipping, but that does not automatically make the United States the proper forum for all

Plaintiff's attorney emphasizes Liberian ownership and Liberian law. He is just as free, therefore, to bring this action is Liberia, if he so chooses. The real point is that the United States lacks sufficient interest and contacts to warrant keeping it here, and it would be highly prejudicial to the defendant to do so.

As far as jurisdiction over the vessel owner is concerned, it is submitted that even if such jurisdiction had been acquired through proper service, the action should be dismissed on the ground of forum non conveniens.

WHEREFORE, defendant requests that the action be dismissed.

THOMAS M. McCAFFREY

Sworn to before me this day of January, 1976

### MEMORANDUM OPINION (Filed April 27, 1976)

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK

Estate of ATHANASSIOS KARRAS,

IVANUS MELIOTAS, Administrator and : Personal Representative of the

Deceased,

Plaintiff,

-v- 75 CIV. 3160

ACTIS COMPANY, LTD. and JOHN KARRAS and KARRAS COMPANY,

Defendants.

#### **APPEARANCES**

ABRAHAM E. FREEDMAN By: Charles Sovel 346 West 17th Street New York, New York 10011

Attorneys for Plaintiff

FRETHILL, HOGAN & MAHAR By: Stanley J. Himmel 21 West Street New York, New York 10006

DARBY, HEALEY & STONEBRIDGE By: Thomas M. McCaffrey 19 Rector Street New York, New York 10006

Attorneys for Defendants

### MEMORANDUM OPINION

Plaintiff, as administrator and personal representative for the estate of Athanassios Karras, has brought this action claiming \$500,000.00 in damages for the death of plaintiff's decedent. Said decedent died aboard the vessel Aquacharm while at sea off of Great Britain on or about July 11, 1973.

Decedent had signed aboard the vessel as a seaman on June 22, 1972 at Amsterdam, having executed a contract which purportedly incorporated all the terms and conditions of the Greek Collective Agreement. Decedent Karras was a Greek citizen, listing his address on the crew list as Krya Vrissi Karditsis, Greece. This crew list, dated July 12, 1973, does not contain any American citizen as officer or crew; of 28 individuals listed, 22 are from Greece and 6 are from the Phillipines.

The vessel Aquacharm is registered under the laws of the Republic of Liberia and flies the Liberian flag. It is owned by defendant Actis Company, Ltd., a corporation duly organized and existing under the laws of the Republic of Liberia, having its principal office and place of business at Monrovia, Liberia. None of the officers, directors or stockholders of Actis Company, Ltd. is a citizen or resident of

the United States, and the company does not maintain any office in the United States. Defendants' counsel maintains that the remaining two defendants, John Karras and Karras Company, are non-existent entities. However, service was accepted for them by the same agent who accepted service for Actis Company, Ltd., and an appearance duly entered for them. It appears to this court that these defendants have merely been misnamed in the complaint and are actually the Greek agents for Actis Company, Ltd., who negotiated the "Seafarers Employment Contract" which decedent entered into with Actis.

The single tangible connection which the events at issue here have with the United States is the fact that the Aquacharm periodically stops at American ports. This factor in and of itself falls far short of establishing this as an appropriate forum for the litigation of this matter. Plaintiff makes an extensive argument, relying on Lauritzen v. Larsen, 345 U.S. 571 (1953), that choice of law principles would dictate the application of Liberian law in this case, and notes that Liberia has essentially adopted the maritime law of the United States. Plaintiff maintains that this situation renders the United States courts an appropriate forum for the litigation of the instant claim. This court need not reach the question of whether Liberian law is the appropriate law to be applied here. However, it is clear that if the principle articulated by plaintiff were accepted by the courts, the already overburden judicial system of this country would

find itself susceptible to taking over the litigative responsibilities of whatever other jurisdictions might deem it suitable to adopt laws based on American models. This clearly would not be an appropriate result.

Furthermore, in the instant case, the questions involved go beyond a mere rote recitation of standard maritime law. Decedent signed a contract which included the terms of the Greek Collective Agreement and which specifically provided for the application of Greek law and the use of Greek courts to resolve disputes. Whether or not such an agreement should be allowed to supersede the ordinary choice of law process is an important question of public policy which ought not to be decided in a forum having little or no connection to the subject matter of the suit.

Beyond the argument that American law is similar to that of Liberia, plaintiff has made no showing that the United States is a more convenient forum than either Greece or Liberia, both of which are much more closely linked to the subject matter of this action. In terms of witnesses, the only ones possibly residing here are individuals who may have been involved in the loading of the ship on a stop in the United States before decedent's accident. Actual witnesses to the accident itself were all Greek citizens, it appears, as is plaintiff himself.

action in the Greek courts because of the less favorable disposition afforded wrongful death actions there. This is not in itself a factor sufficient to justify this court's assumption of jurisdiction. See Fitzgerald v. 21m Israel, 1975 A.M.C. 1425, 1430 (S.D.N.Y. 1975). In addition, in the instant case, defendants have expressed themselves to be amenable to suit in Liberia as well as Greece. See Defendants' Reply Affidavit of February 2, 1976. Thus, the requirement that a complaint dismissed on the grounds of forum non conveniens be capable of being reasserted in another forum appears to have been met.

Accordingly, this court grants defendants' motion for dismissal on <u>forum non conveniens</u> grounds, with the proviso that defendants comply with their pledge to appear in the appropriate Greek or Liberian court, as selected by plaintiff, and that such defendants do not interpose a time limitation defense in whichever forum is chosen.

Dated: New York, New York

April 26, 1976

SO ORDERED

/s/ Constance Baker Motley
CONSTANCE BAKER MOTLEY
U.S.D.J.